

2006

Tom Power

	Grand Traverse	Antrim	Leelanau
Retained	6 Guilty 1 Not Guilty	-0-	2 Guilty
Appointed	1 Guilty 3 Not Guilty	1 Guilty 2 Not Guilty	-0-
TOTAL	7 Guilty 4 Not Guilty	1 Guilty 2 Not Guilty	2 Guilty

8 guilty
1 not guilty
2 guilty
5 not guilty



Everything Michigan

ACLU blasts Michigan's public defender system, cites Muskegon case -- but facts are disputed

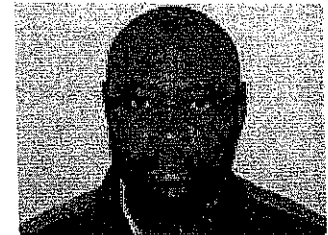
Published: Wednesday, May 18, 2011, 4:45 PM Updated: Wednesday, May 18, 2011, 8:21 PM



John S. Hausman | Muskegon Chronicle
By

The American Civil Liberties Union is citing a 2002-03 Muskegon County armed robbery case as a prime example of the failure of Michigan's system of court-appointed lawyers for criminal defendants who can't afford to hire their own — claiming that “evidence points to (the) innocence” of **Alphonso Sones Sr.**

Sones, now 56, is serving two multi-decade prison terms for knife-point gas-station holdups in August 2002 in Muskegon. His earliest release date is August 2024.



Alphonso Sones Sr.

But the public defender who handled Sones' two robbery trials, as well as the Muskegon County prosecutor, dispute the accuracy of the ACLU's summary of Sones' case — pointing to multiple discrepancies between that summary and their own files about the case.

And the trial judge notes that two separate appeals court panels unanimously upheld both convictions, while the state supreme court declined to review those rulings. The appeals judges rejected Sones' claims that his trial lawyer had represented him ineffectively.

The ACLU released a report Wednesday calling Michigan's public defender system one of the worst in the nation. The civil-liberties advocacy group criticizes the state for leaving funding and oversight of criminal defense of the indigent to the 83 counties, many of whom leave their systems underfunded and badly run.

A coalition of advocates including the ACLU raised the same issues in a 2007 lawsuit against the state that cites Muskegon and several other counties as examples of failed public-defender systems. That lawsuit, mired for years in legal challenges by the state, has yet to go to trial.

The report released Wednesday cited 13 examples from across the state of what the ACLU called failures of justice, including Sones' case.

ACLU report, appeals court opinions in .PDF format

- [ACLU report.pdf](#)
- [2004 opinion.PDF](#)
- [2005 opinion.PDF](#)

But Sones' court-appointed lawyer, J. Christopher Wilson, and Muskegon County Prosecutor Tony Tague dispute a number of points in the ACLU's case summary.

"What memory I have, I thought we fought the case pretty hard," Wilson said.

Among other disputed points, the ACLU report said "the only evidence" against Sones was "the fact that two gas station employees had picked him out of an improperly conducted in-person line-up."

But Tague and Wilson both said that — although the eyewitness identification was crucial and was disputed by Wilson at trial — there also was some physical evidence against Sones found before he was placed in the line-up. That included a 10-inch knife found in a police search of his car, as well as cigarettes of the brand that had been stolen.

Tague said there was nothing improper about the lineup.

The ACLU also said the defense attorney "made no opening argument" at trial. Yet one of the appeals court rulings upholding Sones' convictions quotes an opening statement by Wilson.

The ACLU also calls Sones 56 years old at the time of the robberies, which would be a decade older than the "man in his mid-40s" described by the victims. But Sones actually was 48 at the time.

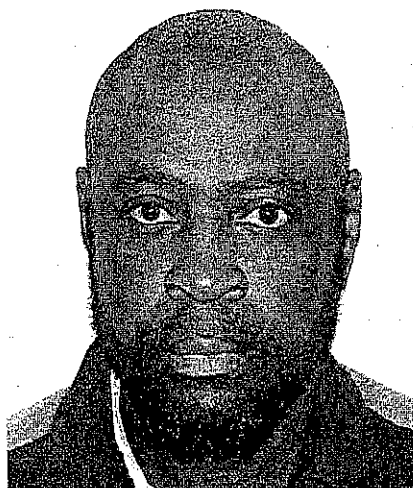
And Wilson argues with the ACLU's assertion that he "never investigated Mr. Sones' assertion that he had been with his ex-wife at the time of the robbery."

Actually, Wilson said, Sones told police he had been with her earlier in the day but said "I was probably somewhere drunk" at the time of the robberies — making an alibi defense impossible.

Email: jhausman@muskegonchronicle.com

© 2011 MLive.com. All rights reserved.

At trial, his public defense lawyer made no opening argument, called no witnesses and rested when the prosecution did.



MUSKEGON COUNTY: Muskegon County Trial Court, Criminal Division
Evidence points to innocence

THE COST: Incarceration: \$210,000 (7 years so far)

WHAT WENT WRONG: Mr. Sones' public defense attorney did not retain a necessary expert because of lack of court funds. He also did not prepare for trial, failing to:

- Investigate the facts of the case or attempt to locate and interview potential alibi witnesses.
- Challenge a suggestive photo lineup.
- Make an opening statement or call a single witness at trial.

ALPHONSO SONES, SR.

Remains in prison after seven years even though evidence points to his innocence.

In 2003, 56-year old Alphonso Sones, Sr. was sentenced to a prison term of between 22 and 36 years for allegedly robbing a gas station. The only evidence against him was the fact that two gas station employees had picked him out of an improperly conducted in-person line-up. Although his court-appointed attorney twice stated on the record that his client could not obtain a fair trial without an expert on the unreliability of eyewitness identifications, he did not seek the funds to retain such an expert.

Background

On the evening of August 26, 2002, a man brandishing a butcher knife robbed a gas station. According to two gas station employees, the man was in his mid-40s and dark-skinned, had facial hair and had been wearing blue sweatpants and a white t-shirt. He made off with two packages of cigarettes, a cash drawer and more than \$400.

The robbery, which took no more than two minutes, was recorded on the gas station's surveillance camera. The

Mr. Sones' public defense attorney explained that he had not retained an expert earlier because "it would be extremely expensive."

recording was grainy and most of the footage was of the back of the perpetrator's head. Yet, two police officers who viewed it immediately after the robbery later testified that they thought that the perpetrator resembled a man known as Jimmie Foreman. They further testified that they had made no effort to locate or speak to Mr. Foreman.

Several days later, different police officers stopped 56-year-old Mr. Sones as he walked from his daughter's house to his girlfriend's house. He was wearing blue pants and a white t-shirt. The officers searched him, his car and his girlfriend's house, but did not find the \$400, the cash drawer, or the butcher knife. Nevertheless, they took Mr. Sones to the police station where they placed him in a lineup.

*Did he go voluntarily?
It seemed, then must have
been more.*

Mr. Sones was arrested based on the results of a flawed lineup.

The two gas station employees viewed the lineup and identified Mr. Sones as the perpetrator. They later stated, however, that the four other men in the lineup looked sufficiently different from their description of the robber that they could not have been the perpetrator. One man was too large; a second man was too young; a third man had hair that was too long; and a fourth had skin that was too light.

On the basis of the employees' identification, Mr. Sones was arrested and charged, and his case was referred to the Criminal Division of the Muskegon County Trial Court for trial.

The court appointed an attorney who failed to prepare Mr. Sones' case for trial.

Mr. Sones' public defense attorney met with Mr. Sones once prior to his trial, refused to listen to his claims of innocence and pressured him to plead guilty. According to Mr. Sones, he never investigated Mr. Sones' assertion that he had been with his ex-wife at the time of the robbery or Jimmie Forman's possible involvement in the crime. Instead, in December 2002, on the eve of trial, the attorney requested a postponement, admitting, "Quite frankly, I don't think I'm prepared for trial at this point." He stated that he wanted to retain an expert on the reliability of eyewitness identification. The court adjourned the trial.

The attorney did not ask the court for the funding to secure necessary expert testimony.

By the time the trial began, the attorney had not retained the eyewitness identification expert. Instead, after the jury had been selected, he asked the court to instruct it on the reliability of eyewitness testimony; the court refused. He then asked that he be allowed to present facts to the jury on the unreliability of eyewitness testimony; the court denied his request. He then asked for a second adjournment so that he could again retain an expert. When the prosecution objected, the attorney explained that he had not retained an expert earlier because "it would be extremely expensive . . . And we all work with limited budgets here and we have to decide whether or not those funds can—should be expended in a particular case." The court again denied his request and the trial went forward. Mr. Sones' attorney made no opening argument, called no witnesses, and rested his case when the prosecution rested its case.

So atty tried + judge said "no"

Mr. Sones remains incarcerated.

Mr. Sones was found guilty of armed robbery and sentenced to 22 to 36 years. His various efforts to overturn his convictions have failed. His earliest release date is 2024. He will be 70 years old.